



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/158046

PRELIMINARY RECITALS

Pursuant to a petition filed May 30, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on July 01, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's application for Medicaid was correctly denied.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal to contest a denial of her BadgerCare+ Medicaid application.
3. Petitioner is 59 years of age. She has been determined to be disabled by the Social Security Administration but she does not receive SSI or SSDI cash benefits. Per Petitioner this is because she

has a retirement account valued at about \$50,000.00 that is counted as an asset for the purpose of determining eligibility for the Social Security programs. She declines to use this account until she reaches retirement age so as to have some financial resources available when she retires.

4. Petitioner is entitled to receive Medicare Part A and B benefits. She does receive Part A benefits. She does not, however, receive the Part B benefits because she does not have the funds with which to pay the premium of about \$105 -110.00 per month.

DISCUSSION

Petitioner filed this appeal to contest the denial of a request for her BadgerCare+ but the hearing involved a general discussion of her eligibility for Medicaid benefits. Petitioner indicated that she does receive Medicare Part A benefits but can't afford the Part B premiums.

Medicare is comprised of the following parts: Part A which covers hospital, nursing home, hospice and home health services; Part B which covers doctor and clinical lab services, outpatient and preventive care, screenings, surgical fees and supplies and physical and occupational therapy; Part C which combines Part A and B – usually through preferred provider plans and Part D which is prescription drug coverage. See <http://www.universal-american-medicare.com/medicare-information/medicare-benefits.aspx>.

Part of the agency consideration of Petitioner's request for Medicaid benefits involved the Medicare Savings program (MSP). That program has subpart and pays for Medicare premiums as follows:

32.1.3 MSP Benefits

1. QMB Medicaid pays Medicare Part A & B premiums and Medicare deductibles and coinsurance.
 2. SLMB Medicaid pays Medicare Part B premiums.
 3. SLMB +. Medicaid pays Medicare Part B premiums.
 4. QDWI Medicaid pays Medicare Part A premiums
- Medicaid Eligibility Handbook, §32.1.3.*

One of the eligibility criteria for BadgerCare+ is that the applicant not be receiving Medicare benefits. *BadgerCare+Eligibility Handbook, §1.1*. One of the eligibility rules for elderly, blind and disabled Medicaid is that a person have assets under \$2000.00. *Medicaid Eligibility Handbook, §39.4.1*. Finally, the State does pay for Medicare premiums for eligible individuals via Medicare Savings program but the same financial rules apply for the MSP as for Medicaid. *Id., §32.1*. One the assets counted for Medicaid purposes are retirement accounts where a person has access to the account. *Id., §16.7.21*. Here Petitioner indicated that she does not want to access her retirement account so as to have funds when she reaches retirement age.

Petitioner fears that she has 'fallen between the cracks' in her quest for health care benefits. Certainly, under the eligibility criteria for BadgerCare+ and elderly, blind and disabled Medicaid Petitioner is not eligible. Nonetheless, the best evidence available is that this is because she has an asset she wants to preserve. While this is somewhat understandable, Petitioner might want to talk to the SSA benefit specialist as well as the Milwaukee Enrollment Services personnel or a nonprofit like Legal Action of Wisconsin or Disability Rights of Wisconsin to help compare the benefits she is foregoing – the SSI or SSDI cash award and the medical benefits - that might be then available to her.

CONCLUSIONS OF LAW

That the agency correctly determined that Petitioner does not meet the eligibility criteria for BadgerCare+ or elderly blind or disabled Medicaid at this time.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

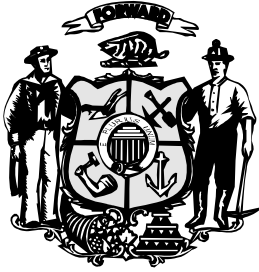
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 18th day of August, 2014

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 18, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability